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03                   UNITED STATES DISTRICT COURT  
04                   WESTERN DISTRICT OF WASHINGTON  
05                   AT SEATTLE

06         RICHARD A. KIRKHAM,                   ) CASE NO. C05-1274-RSM  
07    )  
08         Plaintiff,                                )  
09    )  
10         v.    )  
11         J.I. BELFORD,                              )  
12    )  
13         Defendant.                                )  
14    )

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15                   The Court, having reviewed plaintiff's complaint, defendant's motion for summary  
16 judgment, the Report and Recommendation of the Honorable Mary Alice Theiler, United States  
17 Magistrate Judge, and the balance of the record, does hereby find and ORDER:

- 18                   (1)     The Court adopts the Report and Recommendation;  
19                   (2)     Defendant's motion for summary judgment (Dkt. 25) is GRANTED;  
20                   (3)     Plaintiff's complaint and this action are DISMISSED without prejudice; and  
21                   (4)     The Clerk is directed to send copies of this Order to plaintiff, to counsel for  
22                   defendant, and to the Honorable Mary Alice Theiler.

DATED this 16 day of November, 2009.

Ricardo S. Martinez  
United States District Judge